

**Enrolled Minutes of the Forty-Third Regular Meeting
Of the Twenty-Sixth Highland Town Council
Monday, October 12, 2009**

Study Session. The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, October 12, 2009 at 6:30 O'clock P.M. in the regular place, the upper meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Konnie Kuiper, Brian Novak and Dan Vassar were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the agenda of the imminent meeting.
2. The Town Council and the Fire Chief discussed his desire to purchase a special purpose, "gator style" type vehicle. The Fire Chief presented a memo reporting quotes he received.
3. The Town Council discussed concerns raised by Councilor Herak regarding the design standards for the Redevelopment Area, and to be taken up under the Plan Commission docket. Councilor Herak asked that the Town Council consider delaying the matter. Councilor Herak suggested that the standards if adopted would perhaps reduce the green landscaping in the area. Councilor Herak also expressed his concerns for the set back.

The study session ended at 7:01 O'clock P.M.

Regular Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, October 12, 2009 at 7:05 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Dan Vassar presided and the Town Clerk-Treasurer Michael W. Griffin was present to memorialize the proceedings.

The session was opened with Town Council President Dan Vassar leading the pledge of allegiance to the United States Flag and offering a prayer.

Roll Call: Councilors Bernie Zemen, Mark Herak, Brian Novak, Konnie Kuiper and Dan Vassar were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Town Council Attorney; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; William R. Timmer, CFOD, Fire Chief; Kenneth J. Mika, Building Commissioner; and Cecile Petro, Redevelopment Director were present.

Ed Dabrowski of the Park and Recreation Board and Greg Kuzmar of the Redevelopment Commission were also present.

Minutes of the Previous Session

The minutes of the regular meeting of September 28, 2009 were approved by general consent.

Special Orders:

1. Pre-Adoption Hearing of the Proposed Fiscal Year 2010 Budget for the Town of Highland.

(a) Verification of Proofs of Publication: (TIMES: 9-01 & 9-09; POST-TRIB: 9-01-9-08) The Town Attorney indicated that the proofs of publication were in compliance with IC 5-3-1.

(b) Introduction of **Proposed Ordinance No. 1436**: An Ordinance of Appropriations and Budget Levies and Rates for the 2010 Budget. Councilor Zemen introduced and filed Ordinance No. 1436. Pursuant to IC 6-1.1-17, sections 3(a) and 5(a)(8), the ordinance could not be acted upon sooner than 10 days following the pre-adoption hearing.

(c) **Public Hearing.** The Town Council President called the hearing to order. Mr. Rick Volbrecht, 9221 Parkway Drive, Highland wished to comment on the matter of the Health/Medical Insurance Trust (Resolution No. 2009-50). He was directed to raise the matter during the period for comments from visitors. There were no other comments written or spoken. The hearing was closed.

Pursuant to IC 6-1.1-17 et seq., consideration of the proposed ordinance for adoption cannot take place sooner than ten (10) days following the pre-adoption hearing. Consideration for passage and adoption of the Proposed Ordinance will be at a **regular** meeting of the **Town Council, Monday, October 26, 2009 at 7:00 p.m.**

2. Review of Budget of the Sanitary District, pursuant to IC 6-1.1-17-20. *The Budget is not increased over the prior year. However, under amendments to IC 6-1.1-17-20, the Sanitary District body shall submit its proposed budget and property tax levy to the town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the town fiscal body is required to hold budget approval hearings under this chapter. The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy. The Board of Sanitary Commissioners are expected to consider budget at adoption meeting of October 20, 2009. The final adoption vests with the Town Council. The Town Council should take its final action at its regular meeting of October 26, 2009.*

(a) Introduction of **Enactment No. 2009-51**: Fiscal Body Reviewing and Acting upon The Budget of the Sanitary District of the Town of Highland, Lake County, INDIANA.

Councilor Herak introduced and filed Enactment No. 2009-51. There was no further action.

Fund Name	Budget Estimate	Maximum estimated Funds to be raised	Excessive Levy Appeals	Current Tax Levy
Corporation General	\$ 8,058,572	\$ 5,956,536	\$ -	\$ 4,720,601
Parks & Recreation	\$ 1,924,000	\$ 1,246,110	\$ -	\$ 999,046
Police Pension	\$ 749,140	\$ 240,527	\$ -	\$ 58,386
Redevelopment General	\$ 154,974	\$ 163,316	\$ -	\$ 145,965
Redevelopment Capital	\$ 40,010	\$ -	\$ -	\$ -
Motor Vehicle Highway	\$ 886,071	\$ -	\$ -	\$ -
Local Roads & Streets	\$ 294,449	\$ -	\$ -	\$ -
Mun Cum Cap Dev	\$ 356,846	\$ 480,000	\$ -	\$ 392,482
Special Events Non Rev	\$ 56,600	\$ -	\$ -	\$ -
Cum Cap Improvement	\$ 73,228	\$ -	\$ -	\$ -
Corporation Bonds & Int.	\$ 276,163	\$ 423,847	\$ -	\$ 280,036
Corp Bonds & Int. Exempt	\$ 134,525	\$ 279,454	\$ -	\$ 109,203
Redev Bond & Int Exempt	\$ 479,916	\$ 595,713	\$ -	\$ 418,432
Park Bond & Lease Exempt	\$ 533,017	\$ 896,601	\$ -	\$ 486,548
Solid Waste Dist. Grant	\$ 151,365	\$ -	\$ -	\$ -
Law Enf. Cont. Ed.	\$ 34,600	\$ -	\$ -	\$ -
Inf Com Tech	\$ 188,590	\$ -	\$ -	\$ -
Parks/VIPS Public Safety	\$ 6,000	\$ -	\$ -	\$ -
TOTAL:	\$ 14,398,066	\$ 10,282,104	\$ -	\$ 7,610,699

Corporation General Fund: (departmentalized)	<i>Proposed</i>	FY 2010 <i>Adopted</i>
<i>Office of the Town Council</i>		
Personnel Services \$	78,826	\$ -
Supplies \$	700	\$ -
Other Services & Charges \$	212,465	\$ -
Capital Outlays \$	-	\$ -
Department Total: \$	291,991	\$ -
<i>Advisory Board of Zoning Appeals</i>		
Personnel Services \$	3,359	\$ -
Supplies \$	200	\$ -
Other Services & Charges \$	8,520	\$ -
Capital Outlays \$	-	\$ -
Department Total: \$	12,079	\$ -
<i>Volunteers in Policing</i>		
Personnel Services \$	3,220	\$ -
Supplies \$	16,600	\$ -
Other Services & Charges \$	2,650	\$ -
Capital Outlays \$	-	\$ -
Department Total: \$	22,470	\$ -
<i>Office of the Clerk-Treasurer</i>		
Personnel Services \$	104,556	\$ -
Supplies \$	3,400	\$ -
Other Services & Charges \$	59,604	\$ -
Capital Outlays \$	-	\$ -
Department Total: \$	167,560	\$ -
<i>Building Inspection Department</i>		
Personnel Services \$	219,590	\$ -
Supplies \$	8,750	\$ -
Other Services & Charges \$	69,525	\$ -
Capital Outlays \$	-	\$ -
Department Total: \$	297,865	\$ -
<i>Fire Department</i>		
Personnel Services \$	207,175	\$ -
Supplies \$	30,645	\$ -
Other Services & Charges \$	86,115	\$ -
Capital Outlays \$	33,500	\$ -
Department Total: \$	357,435	\$ -

<i>Plan Commission Dept.</i>			
Personnel Services	\$	2,842	\$ -
Supplies	\$	325	\$ -
Other Services & Charges	\$	22,920	\$ -
Capital Outlays	\$	-	\$ -
Department Total:	\$	26,087	\$ -

<i>Metropolitan Police Department</i>			
Personnel Services	\$	3,332,438	\$ -
Supplies	\$	132,500	\$ -
Other Services & Charges	\$	860,644	\$ -
Capital Outlays	\$	-	\$ -
Department Total:	\$	4,325,582	\$ -

<i>Sanitation & Streets Department</i>			
Personnel Services	\$	292,325	\$ -
Supplies	\$	26,450	\$ -
Other Services & Charges	\$	1,418,582	\$ -
Capital Outlays	\$	-	\$ -
Department Total:	\$	1,737,357	\$ -

<i>Services & Works Board Dept.</i>			
Personnel Services	\$	-	\$ -
Supplies	\$	-	\$ -
Other Services & Charges	\$	764,046	\$ -
Capital Outlays	\$	-	\$ -
Department Total:	\$	764,046	\$ -

<i>Town Hall and Monuments Dept.</i>			
Personnel Services	\$	-	\$ -
Supplies	\$	3,800	\$ -
Other Services & Charges	\$	52,300	\$ -
Capital Outlays	\$	-	\$ -
Department Total:	\$	56,100	\$ -

Fund Total:	\$	8,058,572	\$ -
Proposed (est.) Rate for the Fund	\$	0.7870	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$	-	per \$100 dollars of av

Redevelopment General Fund:

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ 68,589	\$ -
Supplies	\$ 3,000	\$ -
Other Services & Charges	\$ 83,385	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 154,974	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0216	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av
Rate for both the Redevelopment General and the Redevelopment Capital is capped at .0333, pursuant to IC 36-7-14-28.		

Redevelopment Capital Fund:

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 46,100	\$ -
Capital Outlays	\$ 354,000	\$ -
Fund Total:	\$ 400,100	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av
Rate for both the Redevelopment General and the Redevelopment Capital is capped at .0333, pursuant to IC 36-7-14-28.		

Parks and Recreation Fund:

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ 900,000	\$ -
Supplies	\$ 122,000	\$ -
Other Services & Charges	\$ 902,000	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 1,924,000	\$ -
Proposed (est.) Rate for the Fund	\$ 0.1646	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Police Pension 1925 Fund:

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ 747,725	\$ -
Supplies	\$ 310	\$ -
Other Services & Charges	\$ 1,105	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 749,140	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0337	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Parks Dist Bond & Lease Exempt Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 533,017	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 533,017	\$ -
Proposed (est.) Rate for the Fund	\$ 0.1185	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Corporation Bond Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 276,163	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 276,163	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0560	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Corporation Bond Exempt Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 134,525	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 134,525	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0368	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Motor Vehicle Highway Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ 482,275	\$ -
Supplies	\$ 256,120	\$ -
Other Services & Charges	\$ 147,676	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 886,071	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Local Roads & Streets Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ 69,449	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 225,000	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 294,449	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Municipal Cum Cap Dev Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ 4,000	\$ -
Other Services & Charges	\$ 142,093	\$ -
Capital Outlays	\$ 210,753	\$ -
Fund Total:	\$ 356,846	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0634	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av
The rate is fixed or capped by I.C. 36-9-15.5 et seq.		

Cumulative Cap Imp. Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ -	\$ -
Other Services & Charges	\$ 73,228	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 73,228	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Law Enf. Ed., Trng., & Supply Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services	\$ -	\$ -
Supplies	\$ 10,700	\$ -
Other Services & Charges	\$ 23,900	\$ -
Capital Outlays	\$ -	\$ -
Fund Total:	\$ 34,600	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Redevelopment Bond Exempt Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services		
Supplies \$	-	\$ -
Other Services & Charges \$	479,916	\$ -
Capital Outlays \$	-	\$ -
Fund Total: \$	479,916	\$ -
Proposed (est.) Rate for the Fund	\$ 0.0787	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Information & Comm Tech

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services \$	17,812	\$ -
Supplies \$	-	\$ -
Other Services & Charges \$	170,778	\$ -
Capital Outlays \$	-	\$ -
Fund Total: \$	188,590	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

VIPS/PARKS Public Safety Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services \$	600	\$ -
Supplies \$	5,400	\$ -
Other Services & Charges \$	-	\$ -
Capital Outlays \$	-	\$ -
Fund Total: \$	6,000	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Solid Waste District Grant Fund

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services		
Supplies \$	12,000	\$ -
Other Services & Charges \$	139,365	\$ -
Capital Outlays \$	-	\$ -
Fund Total: \$	151,365	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Special Events Non Reverting

	<i>Proposed</i>	<i>Adopted</i>
Personnel Services \$	7,102	\$ -
Supplies \$	1,000	\$ -
Other Services & Charges \$	48,498	\$ -
Capital Outlays \$	-	\$ -
Fund Total: \$	56,600	\$ -
Proposed (est.) Rate for the Fund	\$ -	per \$100 dollars of av
Adopted (Est.) Rate for the Fund	\$ -	per \$100 dollars of av

Total of All Funds: \$	14,758,156	\$ -
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3. **Plan Commission Docket No. 2009-01:** Petitioner seeking an amendment to the text of the Comprehensive Zoning Ordinance, Codified as Chapter 214 of the Municipal Code. Petitioner specifically seeks addition of a new section, §214.180 to be called **RD - Redevelopment District**. Petitioner is **Highland Redevelopment Commission**. The matter was certified by the Municipal Plan Commission with a favorable recommendation. The matter was considered at the Plan Commission meeting of August 19, 2009. The Findings of Fact were memorialized and approved by the Plan Commission on September 16, 2009. *Pursuant to IC 36-7-4-607, the Town Council may either adopt the recommendation and adopt the ordinance, reject the recommendation, or amend the proposal. If no action occurs within 90 days, the recommendation of the Plan Commission is adopted. The Town Council must act by November 17, 2009.*

(a) Action on Ordinance No. 1437: An Ordinance to Amend the Text of the Zoning Code adopting development standards for Redevelopment Districts as Requested by the Highland Redevelopment Commission and Favorably Recommended by the Plan Commission, pursuant to IC 36-7-4-607.

Councilor Zemen moved that the recommendation be accepted, the petitioner's request granted and that Ordinance No. 1437 be adopted. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and one negative. With Councilors Zemen, Novak, Kuiper and Vassar voting in the affirmative, and Councilor Herak voting in the negative, the motion passed. The Ordinance was adopted.

After introduction but before the vote, Councilor Herak expressed his concerns as he raised in the pre meeting study session. He expressed his belief that the standards may reduce the amount of green landscape and he renewed his request that the matter be delayed.

A colloquy ensued between and among Councilor Herak, Councilor Kuiper, the Town Council President and the Redevelopment Director in which it was suggested that greenways could still be a part of the designs standards and that the design advisory council contemplated under the new standards would serve to promote green and other favorable standards. It was suggested that inclusion of the advisory committee could serve to allay the concerns raised.

ORDINANCE No. 1437
of the
TOWN of HIGHLAND, INDIANA

An Ordinance Amending the Text of the Comprehensive Zoning Ordinance passed by the Town Council of the Town of Highland, Lake County, Indiana on the 22nd day of November, 1999, to be Effective on the 1st day of July, 2000, partially repealing and amending the text of the Ordinance, now codified as Chapter 214 of the Municipal Code.

WHEREAS, The Town Council of the Town of Highland, Indiana, did on the 22nd day of November, 1999, pass a certain zoning ordinance which is now in full force and effect, and which is known as Ordinance Nos. 1126 as amended by 1127.1126-A, together with all amendments thereof and supplements thereto and codified as Chapter 214 of the Highland Municipal Code;

WHEREAS, The Highland Redevelopment Commission, pursuant to the provisions IC 36-7-4-607 initiated a proposal before the Plan Commission to amend the text of the Comprehensive Zoning Ordinance, without any change to the maps; and

WHEREAS, The Highland Plan Commission pursuant to the provisions IC 36-7-4-607 certified its proposal as an amendment of the code the effect of which if adopted would amend and partially repeal the text of the Comprehensive Zoning Ordinance; and

WHEREAS, After due consideration and study, the Town Council of said Town does believe that said amendment will be advantageous to said Town and will insure the public health, safety, welfare and morals of the citizens thereof in the area affected,

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Lake County, Indiana:

Section 1. That the proposal to amend and partially repeal the text of the Comprehensive Zoning Ordinance, codified as Chapter 214 of the Highland Municipal Code be approved and adopted;

Section 2. That in order to carry out and further perfect the foregoing approval the amendment addition of a new section to Chapter 214, to be entitled **Section 214.180 RD Redevelopment District Standards**, which text is in a companion document which shall be incorporated by reference, with two (2) copies of the companion document on file and available for inspection in the Office of the Clerk-Treasurer, all pursuant to IC 36-1-5-4;

Section 3. That an emergency exists for the immediate taking effect of this amendment, and the same shall be in full force and effect from and after its passage.

Certification of the Plan Commission

It is hereby certified that the foregoing proposed amendment of the text of the zoning ordinance was considered by the Highland Municipal Plan Commission at its meeting of 19 August, 2009, having passed by a vote of 6 in favor and 0 opposed. Findings of Fact were adopted at its meeting of 16 September 2009, by a vote of 6 in favor and 0 opposed. This proposal was duly forwarded with **favorable** recommendation for adoption to the Town Council of Highland on 17 September 2009.

**TOWN OF HIGHLAND
Municipal Plan Commission**

/s/Mario Martini, President

Attest:

/s/James Slagle, Secretary

Action by Legislative Body

Duly Ordained and (Adopted/Rejected) pursuant to the provisions of IC 36-5-2-9.8 (b)(1) and IC 36-7-4-607, the recommendation of the Plan Commission is noted and the Ordinance is (adopted/~~defeated~~) by the Town Council of the Town of Highland, Lake County, Indiana, this 12th day of October 2009, having sustained a vote of 4 in favor and 1 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

Staff Reports: The Council received the following reports as information for the record:

• Building & Inspection Report for September 2009

Permit Type	No.	Residential	Commercial	Est. Cost	Fees
Single Family	0	0	0	\$0.00	\$0.00
Duplex/Condo	0	0	0	\$0.00	\$0.00
Commercial	0	0	0	\$0.00	\$0.00
Residential	85	85	0	\$417,126.00	\$8,133.50
Addit/Remodel					
Commercial	9	0	9	\$121,557.00	\$2,561.50
Addit/Remodel					
Schools/Church remodel/addtn.	0	0	0	\$0.00	\$0.00
Sheds	3	3	0	\$6,413.00	\$384.00
Fences	16	15	1	\$42,250.00	\$1,480.00
Garage	0	0	0	\$0.00	\$0.00
Decks & Porches	3	3	0	\$9,640.00	\$598.00
Swimming Pools	0	0	0	\$0.00	\$0.00
Misc. Permits	6	6	0	\$38,502.00	\$834.00

Misc. other	0	0	0	\$0.00	\$0.00
Signs	2	0	2	\$1,945.00	\$362.50
Fire Repair	1	1	0	\$43,184.00	\$643.00
Total:	125	113	12	\$680,617.00	\$14,996.50
Electrical Permits	15	13	2		\$1,544.00
Mechanical Permits	5	5	0	0	\$397.50
Plumbing Permits	16	15	1		\$1,282.25
Water Meters	0	0	0		\$0.00
Water Taps	0	0	0		\$0.00
Sewer Taps	0	0	0		\$0.00
Total:	16	15	1		\$1,282.25

September Code Enforcement: 133 warnings issued and 20 citations were issued.

There were 107 final building inspections, 8 plumbing inspections, and 25 electrical inspections. There was one electrical exam given.

• **Fire Department Report for September 2009**

	Month	Y.T.D.	Previous Y.T.D.	Task Hours
General Alarms	14	95	114	
Car Fires	1	11	11	
Still Alarms	6	76	117	
Ambulance calls	0	0	1	

• **Workplace Safety Report for September 2009**

There were two incidents reported in September. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2009	Total in 2008	Restricted Days 2009	Lost Workdays This Year	Restricted Days Last Year (2008)	Lost Workdays Last Year (2008)
Parks	1	2	3	0	0	0	0
Fire	0	0	1	0	0	0	0
Police	0	4	8	0	0	0	21
Street	1	2	6	0	0	3	2
Water & Sewer	0	2	6	0	0	82	0
Maint.	0	0	0	0	0	0	0
Other	0	0	1	0	0	0	0
TOTALS	2	10	25	0	82	3	23

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Unfinished Business and General Orders:

1. **Works Board Order No. 2009-33:** An Order Authorizing and Approving the eleventh change order to the construction Contract R-30936-A related to the Kennedy Avenue Improvement Project, Northern Terminus at Little Calumet River and southern Terminus at Ridge Road, a Federal Aid Highway Project, all pursuant to IC 36-1-12-18

Councilor Zemen moved the passage and adoption of Works Board Order No. 2009-33. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

After introduction but prior to the vote, Councilor Herak inquired as to the reasons for the added cost. It was noted that the locations of utilities as provided by AT&T were incorrect. Councilor Herak inquired whether or not AT&T could be made to pay the increase in costs.

THE TOWN of HIGHLAND
ORDER of the WORKS BOARD NO. 2009-33

AN ORDER AUTHORIZING and APPROVING THE ELEVENTH CHANGE ORDER to the CONSTRUCTION CONTRACT R-30936-A RELATED to the KENNEDY AVENUE IMPROVEMENT PROJECT, NORTHERN TERMINUS AT LITTLE CALUMET RIVER AND SOUTHERN TERMINUS AT RIDGE ROAD, A FEDERAL AID HIGHWAY PROJECT, ALL PURSUANT TO IC 36-1-12-18

Whereas, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24 (3), has heretofore authorized and approved a public works project for street construction and other improvements in the public roadway through the assistance of federal highway aid funds, with the project commonly known as the **Kennedy Avenue Reconstruction Project**;

Whereas, In the course of the construction, reconstruction, or repair of the Kennedy Avenue Reconstruction Project, it has become necessary to change or alter the original specifications of the project;

Whereas, First Group Engineering (FGE), Incorporated, a licensed engineer performing construction engineering services on this project, at the request of the Town through its Public Works Director, has specifically identified and presented descriptions of such changes as one (1) proposed addenda, to be known as the *eleventh addenda* to the original construction contract with Grimmer Construction, Inc., particularly in support of changes in costs associated with items outlined in the order document which has a net effect of increasing the contract cost; and

Whereas, There are sufficient and available appropriations balances on hand to support any additional payments, if required, under the agreement, pursuant to IC 5-22;

Whereas, The Town of Highland, through its Town Council which is also the Board of Works, now desires to accept and issue the orders for change as described;

Now Therefore Be it hereby Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1 That the Eleventh Addenda to the Construction Contract R-30936-A with Grimmer Construction, Inc. for the **Kennedy Avenue Reconstruction Project**, as prepared by First Group Engineering, Incorporated, a licensed engineer performing construction engineering services on this project, are hereby determined to be directly related to the original project and are hereby approved, adopted and ratified in each and every respect;

Section 2 That the eleventh addendum is hereby ordered to be known as **Change Order No. 11**, issued to add net increases to the original agreement in the net increased amount of eight thousand, eight hundred forty-nine dollars and twenty-five cents (\$8,849.25);

Section 3. That the adoption and approval of the change order numbered 11, has the aggregate effect of producing a net increase of one hundred eighty-thousand, nine hundred fifty-eight dollars and nine cents (\$180,958.09), bringing the total value of the entire agreement with any and all change orders approved to date to seven million, five hundred sixteen thousand, five hundred ninety-six dollars and eighty-nine cents (\$7,516,596.89);

Section 4. That as any additional units of materials included in the original contract become needed, the cost of these units in this change order be the same as those shown in the original contract, all pursuant to IC 36-1-12-18(f);

Section 5. That the total of all change orders issued that increase the scope of this project may not exceed twenty percent (20%) of the amount of the original contract, that original being seven million, three hundred-thirty-five thousand, six hundred thirty-eight dollars and eighty cents (\$7,335,638.80)) which may not exceed eight million, eight hundred two thousand, seven hundred sixty-six dollars and twenty cents (\$8,802,766.20) all pursuant to IC 36-1-12-18(d);

Section 6. That the proper officers hereby be and are authorized to execute the necessary documents with their signatures.

Be it So Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 12th day of October 2009 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Resolution No. 2009-50:** A Resolution Authorizing and Approving an Agreement and Declaration of Trust between the Town of Highland and the Indiana Association of Cities and Towns, in order to form a cooperative health benefit arrangement, pursuant to I.C. 5-10 et seq; and IC 36-1-3. Councilor Herak moved the passage and adoption of Resolution No. 2009-50. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**Town of Highland
Resolution No. 2009-50**

A RESOLUTION AUTHORIZING AND APPROVING AN AGREEMENT AND DECLARATION OF TRUST BETWEEN THE TOWN OF HIGHLAND AND THE INDIANA ASSOCIATION OF CITIES AND TOWNS, IN ORDER TO FORM A COOPEATIVE HEALTH BENEFIT ARRANGEMENT, PURSUANT TO I.C. 5-10 ET SEQ; AND IC 36-1-3.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Title 5, Article 10, Chapters 2.2 and 2.6 enables a public employer to provide programs of group health insurance by purchasing policies of group insurance or establishing self-insurance programs;

WHEREAS, Title 5, Article 10, Chapter 8 further enables two or more public employer to establish a common and unified plan of group insurance for employees, including retired employees.

WHEREAS, The Indiana Association of Cities and Towns desired to assist its membership in managing the increasing costs of medical insurance;

WHEREAS, The Indiana Association of Cities and Towns formed a bipartisan oversight committee (the "Committee") to investigate the creation of a cooperative health benefit arrangement for its members;

WHEREAS, The Committee has developed a cooperative health benefit arrangement for the good of all qualified members of the Indiana Association of Cities and Towns;

WHEREAS, To safeguard the assets of this cooperative health benefit arrangement, it is desirable to enter into an Agreement and Declaration of Trust of the IACT Medical Trust; and,

WHEREAS, The Town Council of the Town of Highland, has determined that establishing a cooperative health benefit arrangement for the good of all qualified members of the Indiana Association of Cities and Towns and entry into an Agreement and Declaration of Trust of the IACT Medical Trust to be a desirable action that will promote worker wellness and well being,

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That a cooperative health benefit arrangement for the good of all qualified members of the Indiana Association of Cities and Towns and entry into an Agreement and Declaration of Trust of the IACT Medical Trust is hereby approved and authorized;

Section 2. That the Agreement and Declaration of Trust Agreement, a copy of which is attached as an exhibit to this resolution, is hereby approved and authorized in all respects, which particularly includes the following:

(A) The establishment of the Indiana Associations of Cities and Towns (IACT) Medical Trust, established for the purpose of providing medical, dental, and vision coverage and related administrative services for the benefit of persons who may time to time be beneficiaries;

(B) The authorization of the Town of Highland as a participating employer, and its full-time employees to be beneficiaries of the Trust herein described;

Section 3. That the participation and enrollment by the Town of Highland as a participating employer in the cooperative health benefit arrangement for the good of all qualified members of the Indiana Association of Cities and Towns and entry into an Agreement and Declaration of Trust of the IACT Medical Trust is hereby approved and authorized;

Section 4. That the proper officers are hereby authorized and instructed to execute and sign such documents as are necessary to carry out the purposes of this resolution, including such counterparts to evidence the approval of the Agreement and Declaration of Trust.

DULY RESOLVED AND ADOPTED this 12th Day of October 2009, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

ATTEST:

**Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

EXHIBIT

**AGREEMENT AND DECLARATION OF TRUST
OF THE IACT MEDICAL TRUST**

THIS AGREEMENT AND DECLARATION OF TRUST effective on the 1st day of January, 2010, by and between the Indiana cities and towns listed in Appendix A (each a "Municipality") and the Indiana Association of Cities and Towns.

WITNESSETH:

WHEREAS, the Indiana Association of Cities and Towns desired to assist its membership in managing the increasing costs of medical insurance;

WHEREAS, Indiana law permits two or more local public employers to establish a common and unified plan of group insurance for employees, including retired local employees (Indiana Code § 5-10-8-5);

WHEREAS, the Indiana Association of Cities and Towns formed a bipartisan oversight committee (the "Committee") to investigate the creation of a cooperative health benefit arrangement for its members;

WHEREAS, Sharon McShurley, Mayor of the City of Muncie, was appointed Chair of the Committee;

WHEREAS, the following individuals provided dutiful service on the Committee: Larry Breese, Clerk Treasurer of the City of Greenfield; Diana Cordray, Clerk-Treasurer of the City of Carmel; John Dennis, Mayor of City of West Lafayette; John Ditslear, Mayor of the City of Noblesville; Ted Ellis, Mayor of the City of Bluffton; Shawna Girgis, Mayor of the City of Bedford; Matt Greller, Executive Director of the Indiana Association of Cities and Towns; Cecilie Hendrix, Human Resources Director of the Town of Fishers; Allan Kauffman, Mayor of the City of Goshen; Jeff Rea, Mayor of the City of Mishawaka; Tony Roswarski, Mayor of the City of Lafayette; Bill Schmitt, Mayor of the City of Jasper; and Ernie Wiggins, Mayor of the City of Warsaw;

WHEREAS, the Committee has developed a cooperative health benefit arrangement for the good of all qualified members of the Indiana Association of Cities and Towns;

WHEREAS, to safeguard the assets of this cooperative health benefit arrangement, the parties hereby enter into this Agreement and Declaration of Trust of the IACT Medical Trust;

NOW THEREFORE, in consideration of the mutual promises, terms, conditions and covenants contained herein, the parties agree as follows:

**ARTICLE I
DEFINITIONS**

The following definitions shall govern the following terms for the purpose of this Trust Agreement, unless the covenants state otherwise:

1.1 "Annual Meeting" shall mean a meeting open to all Trustees that shall occur each year on or before December 1.

- 1.2 "Eligible Employee" means:
- (a) An elected or appointed official of a Participating Employer;
 - (b) An employee of a Participating Employer employed on the basis of at least thirty (30) hours of work per week; or
- (c) An individual or group of individuals associated with a Participating Employer that is otherwise approved by Majority Vote.
- 1.3 "Retired Employee" means:
- (a) A former employee who qualifies for a benefit under Indiana Code § 5-10-8-2.6(e) or § 5-10-8-2.2(g) or any successor statutes; or
 - (b) A former employee who meets the group insurance participation requirements for retired employees established by the Participating Employer's personnel policy.
- 1.4 "Majority Vote" shall mean an affirmative vote of a majority of the Trustees with voting privileges in attendance at the Annual Meeting or other scheduled meeting of the Trust.
- 1.5 "Participating Employer" includes the Indiana Association of Cities and Towns, the Municipalities listed on Appendix A and any Indiana municipality that subsequently adopts this Trust Agreement. A Municipality that fails to remain a member in good standing of the Indiana Association of Cities and Towns may be expelled pursuant to Section 8.5.
- 1.6 "Trust" shall mean the IACT Medical Trust.
- 1.7 "Trust Agreement" means this Agreement and Declaration of Trust, as it may be amended from time to time.
- 1.8 "Trustee" shall mean an appointed or elected individual as set forth in Article IV.
- 1.9 A "Quorum" is one more than half of the Trustees.

ARTICLE II CREATION OF TRUST

- 2.1 Establishment of Trust. The settlors, otherwise known as the Participating Employers, hereby declare and establish a trust to be known as the "IACT Medical Trust." Each of the Participating Employers will contribute to the Trust the sum of ten dollars (\$10.00) on or before the effective date of this original Agreement. The Participating Employers may transfer to the Trust such other property, whether real or personal, tangible or intangible, as may be permitted by law. The Trustees agree to hold such property, and accretions and additions thereto from whatever source, subject to the terms and provisions of this Trust Agreement.
- 2.2 Purpose. This Trust is established for the purpose of providing medical, dental and vision coverage and related administrative services for the benefit of persons who may from time to time be beneficiaries hereunder.
- 2.3 Trust Assets. The Trustees shall hold and disburse all monies received from any Participating Employer under this Trust Agreement, and any other monies and property which may come into their hands hereunder, according to the powers and duties and for the purposes set out in this Trust Agreement.
- 2.4 Permissible Forms of Coverage. This Trust is authorized to provide medical, dental and vision coverage for employees, dependents and retired employees of the Participating Employers.

ARTICLE III PREMIUM CONTRIBUTIONS AND COVERAGE OBLIGATIONS

- 3.1 Premium Contributions. Each Participating Employer shall pay its required premium contribution to the Trust on or before the tenth (10th) day of each month. A Participating Employer that fails to pay its required premium contribution on or before the tenth (10th) day of each month may be required to pay interest at the rate of three percent (3%) in excess of the prime rate at JPMorgan Chase Bank, N.A. or its successor, per annum, on all amounts due and unpaid. The Trustees shall also charge such Participating Employer any costs of collection of such due and unpaid amounts, including, but not limited to, reasonable attorney fees, court costs and other costs of collection.
- 3.2 Coverage Obligation. Each Participating Employer is required to provide medical coverage to its Employees exclusively through this Trust unless other medical coverage is approved by Majority Vote. The requirement set forth in this section 3.2 is intended to minimize the risks of adverse selection.

ARTICLE IV DURATION AND TERMINATION OF TRUST

4.1 Initial Membership Period; Continuation The Trust herein created and this Trust Agreement shall exist for an initial term of three (3) years from the date of the execution hereof, and shall continue thereafter unless terminated by Majority Vote. In the event that a Majority Vote resolves to terminate the Trust, the Trust will continue past the date of the Trustees action to terminate this Trust and will terminate not less than sixty (60) days from the date of the Trustees' termination action. Notwithstanding any provision to the contrary, if the Trust shall violate any rule against perpetuities, accumulation or other similar law, the Trustees are hereby directed to terminate such Trust on the date limited by such rule or law.

4.2 Termination. In the event of termination of the Trust, the Trustees shall apply all funds to pay any and all obligations of the Trust and distribute and apply any remaining surplus to the each Participating Employer in proportion to its percentage of total premium payable during the previous six (6) month period (subject to Section 8.5). In the case of any deficit, each Participating Employer shall be assessed in proportion to its percentage of total premium payable during the previous six (6) month period. For illustrative purposes only, assume that the City of ABC contributed twenty percent (20%) of the total premium paid to the Trust during the prior six (6) month period. In the event of a deficit, the City of ABC would be responsible for twenty percent (20%) of the total supplementary payment. Alternatively, the Trustees may require that any supplementary payments be made by each Participating Employer according to any other equitable formula, provided that such formula is approved by an affirmative vote of three-quarters (3/4) of all Trustees.

ARTICLE V TRUSTEES

5.1 Composition of Board of Trustees. The Board of Trustees shall consist of twelve (12) Trustees as set forth below:

- (a) Six (6) Trustees shall be elected by the Participating Employers. Each Trustee elected pursuant to this subsection 5.1(a) must be an official of a Participating Employer and shall serve a three (3) year term. Each Trustee may be elected to unlimited successive terms.
- (b) Four (4) Trustees shall be appointed by the Indiana Association of Cities and Towns. Each Trustee appointed pursuant to this subsection 5.1(b) must be an official of a Participating Employer and shall serve a three (3) year term. Each Trustee may be elected to a maximum of two successive terms.
- (c) One (1) Trustee shall be an independent financial expert appointed by the Indiana Association of Cities and Towns. The Trustee appointed pursuant to this subsection 5.1(c) shall be a certified public accountant. The Trustee shall serve one year terms and is eligible for reappointment annually.
- (d) One (1) Trustee shall be the Executive Director of the Indiana Association of Cities and Towns. This Trustee shall serve in an ex officio capacity for an indefinite term.

It is the intent of the Participating Employers that the Trustees elected pursuant to subsection 5.1(a) and appointed pursuant to subsection 5.1(b) shall serve staggered terms. To effectuate this intent, the initial term of one or more of these Trustees shall be abbreviated.

5.2 Compensation and Expenses. Trustees shall receive no compensation for their services as Trustees. The Trustees shall be reimbursed by the Trust for all reasonable and necessary expenses, which the Trustees may incur in the performance of their duties.

5.3 Liability of Trustees. It is the intention of the settlors (and consistent with the purposes of the Trust) that the Trustees carry out their duties without liability for the actions of others, including other Trustees, predecessor Trustees, agents, attorneys, employees, consultants, independent contractors or insurance carriers. No Trustee shall be liable or responsible for any acts or defaults of any other Trustee or predecessor Trustee, or for failing to compel any other Trustee not to breach the Trust, or for any loss or expense resulting from or occasioned by anything done or neglected to be done in the administration of the Trust prior to his becoming a Trustee, nor shall any successor Trustee be required to inquire into or take any notice of the prior administration of the Trust, compel a predecessor Trustee to deliver Trust property, or compel a predecessor Trustee to redress a breach of trust made by the predecessor Trustee. No Trustee acting hereunder shall be liable for any mistake in judgment or other action taken or omitted by him in good faith, nor for the acts of any insurance carrier, agent, consultant, employee, independent contractor or attorney; nor shall any Trustee be individually or personally liable for any of the obligations of the Trustees acting as such under the Trust. Trustees shall not be liable for claims brought by third parties for injuries suffered in connection with the Trust. Trustees shall not be liable for not complying with the prudent-investor rule stated in Indiana Code § 30-4-3.5-1 et seq. or any successor statutes; nor shall any Trustee be liable for loss incurred through the investment of Trust funds or failure to invest Trust funds.

5.4 Meetings. The Trust shall conduct one Annual Meeting. It is anticipated that the Trust shall conduct at least three other meetings each calendar year. The Trust shall also hold such special meetings at such time and place as may be called by the Trust chairperson. A Quorum shall be necessary to conduct business.

ARTICLE VI POWERS AND DUTIES OF THE TRUSTEES

6.1 Owners of Assets. The Trustees shall, subject to the Trust hereby created, be the owners of the assets held in Trust pursuant to this Agreement and shall be entitled to exercise each and every incident of ownership not inconsistent therewith including, by way of illustration only and not by way of limitation, the power to sell or assign any assets, to receive surplus derived from contracts, to receive income and capital gains on assets, to receive payments of any kind which may be made on assets and to convert from one to another.

6.2 Service Providers. The Trustees shall be permitted to engage in any and all efforts deemed reasonable and appropriate to create and operate a cooperative health benefit arrangement for Indiana cities and towns. Such efforts may include, but shall not be limited to, contracting with actuaries, accountants, attorneys, consultants, insurance companies, stop-loss carriers, wellness consultants or other vendors.

6.3 Full and Exclusive Authority. The Trustees shall have full and exclusive authority to administer the Trust in accordance with the terms and conditions hereof.

6.4 Interpretation of Agreement. The Trustees will have full power and authority to construe the provisions of this Agreement. Any such construction of this Agreement shall be binding upon all parties hereto.

6.5 Governance. The Trustees shall have the responsibility and the power to make rules and regulations for the government, management, and administration of the Trust to carry out the provisions of this Agreement.

6.6 Other Powers. In addition to the specific powers enumerated herein, the Trustees and the Trustees' successors are hereby granted all the powers accorded Trustees under the Indiana Trust Code, as amended from time to time, except as to matters pre-empted by federal law. Furthermore, the Trustees shall have the authority to do all acts, whether or not expressly authorized, which may be necessary or proper for the protection of the property held hereunder or for the carrying out of any duty under this Agreement, provided such acts are not in direct conflict with the terms of this Agreement or applicable federal or state law.

6.7 Voting. All Trustees shall be afforded one (1) vote except the IACT Executive Director. The Trustees are encouraged to resolve all material issues impacting the Trust by consensus; however, in the event that consensus is not possible, the Trustees are authorized to act upon a Majority Vote except as otherwise noted by this Agreement.

ARTICLE VII ACCOUNTS, INVESTMENTS AND AUDIT

7.1 Accounts. The Trust shall establish and maintain such bank accounts as the Trustees, from time to time, shall determine to be proper. All premium contributions and other monies received on behalf of the Trust shall be remitted to the depository bank or banks for deposit within twenty four (24) hours of receipt.

7.2 Investments. The Trustees shall have the power and discretion to invest and reinvest any property of the Trust **solely in cash or cash equivalents**. For purposes of this Agreement, the term cash equivalent shall include U.S. Government and Agency obligations, commercial paper rated "A1" or "A2" by Standard and Poor's or "P1" or "P2" by Moody's, certificates of deposit issued by FDIC insured U.S. Banks, custodial bank's short-term reserve funds and no-load money market mutual funds with average maturities not exceeding ninety (90) days.

7.3 Annual Audit. The Trustees shall retain a certified public accountant to conduct an annual audit of the financial affairs of the Trust. This audit shall be filed with the Indiana Department of Insurance and a copy shall be furnished to each Participating Employer.

ARTICLE VIII ADDITION, WITHDRAWAL AND EXPULSION

8.1 New Participating Employers. New Participating Employers may join the Trust upon a Majority Vote. New Participating Employers may be admitted subject to the payment of such sums or the imposition of such conditions as shall be established at the time an offer of participation in the Trust is made.

8.2 Withdrawal. No Participating Employer may withdraw from the Trust prior to December 31, 2012. Thereafter, a Participating Employer may withdraw from participation in the Trust effective the first day of any Trust Year by delivering written notice of the withdrawal to the Trust and the Indiana Association of Cities and Towns at least eight (8) months prior to the first day of that Trust Year. A Participating Employer shall pay to the Trustees all assessments due and payable preceding the effective date of the withdrawal. A Participating Employer that withdraws from the Trust shall not have any right or interest in any asset of the Trust. Notwithstanding the foregoing, the Trust shall pay claims of the withdrawing Participating Employer incurred prior to date of such withdrawal but not reported until after said Participating Employer has withdrawn from the Trust, subject to reasonable limitations imposed by the Trustees.

8.3 Rescission of Notice of Withdrawal. A Participating Employer that has given written notice of withdrawal to the Trust may rescind said notice within ninety (90) days after delivery of said notice of withdrawal. Such rescission shall be effective only if it is approved by a vote of two-thirds (2/3) of the Trustees with voting privileges. If written request to rescind is delivered more than ninety (90) days after notice of withdrawal was provided, but prior to

the effective date of withdrawal, the withdrawal notice shall be rescinded only upon written approval by ninety percent (90%) of the Trustees with voting privileges.

8.4 Consequences of Withdrawal. Participating Employers that withdraw from the Trust may not be readmitted to the Trust for three (3) years following the effective date of their withdrawal.

8.5 Expulsion. By the vote of at least two-thirds (2/3) of the entire membership of the Trustees, if a hearing is requested, any Participating Employer may be expelled. Such expulsion may be carried out for one or more of the following reasons:

- (a) Failure to make any payments due to the Trust.
- (b) Failure to remain a member in good standing with the Indiana Association of Cities and Towns.
- (c) Failure to furnish full cooperation with the Trust's attorneys or any agent, employee, officer or independent contractor of the Trust relating to the purpose and powers of the Trust.
- (d) Failure to comply with the terms of this Trust Agreement, including, but not limited to, the obligation to provide medical coverage exclusively through this Trust.
- (e) Failure to carry out any obligation of a Participating Employer, which impairs the ability of the Trust to carry out its purpose or powers.

No Participating Employer may be expelled except after written notice from the Trustees of the alleged failure along with a reasonable opportunity of not less than thirty (30) days to cure the alleged failure. The notice shall specify that the Participating Employer shall be expelled unless the failure is cured and the date upon which expulsion shall occur if no hearing is requested. The Participating Employer, in writing, may request a hearing before the Trust. The request shall be made prior to the date by which the failure is to be cured. The date for the hearing will be set by the President, who shall call for a Trust meeting to take place. The date for a hearing shall not be less than seven (7) days after the expiration of the time to cure has passed. A decision by the Trust to expel a Participating Employer after notice and hearing and a failure to cure the alleged defect shall be final unless the Trust shall be found by a court to have committed a gross abuse of discretion. After a hearing, the Trustees may establish the date at which the expulsion of the Participating Employer shall be effective at any time not less than forty (40) days after the vote expelling the Participating Employer has been made by the Trustees. If the expulsion is for a failure to make payments due to the Trust the effective date of the expulsion may be at any time after the vote expelling the Participating Employer. Also, if the date of expulsion is less than forty (40) days before the beginning of the next fiscal year, the Trust may expel at the end of the fiscal year. If the motion to expel the Participating Employer made by the Trustees or a subsequent motion does not state the time at which the expulsion shall take place, such expulsion shall take place forty (40) days after the vote expelling the Participating Employer, or at the beginning of the next fiscal year, whichever date is sooner. After expulsion, the former Participating Employer shall continue to be fully obligated for all obligations, which were created during the term of its membership as if it was still a Participating Employer of the Trust.

ARTICLE IX ACCESS TO CLAIMS EXPERIENCE

9.1 Right of Participating Employer to Claims Experience. Each Participating Employer shall be entitled to access its individual claims experience upon written request by the Mayor or chief official of the Participating Employer.

9.2 Rights of Beneficiaries to Information Relating to the Administration of the Trust. Employees and other individual beneficiaries of the Trust shall have the right to access and amend their own protected health information to the extent set forth by the HIPAA Privacy Rule. Employees and other individual beneficiaries of the Trust shall also be entitled to review aggregate, de-identified claims information relating to beneficiaries of the entire Trust. However, except as approved by an affirmative vote of the Trustees, Employees and other individual beneficiaries shall not be entitled to information concerning any other matter related to the administration of the Trust and shall not have the right to inspect the Trust property, the Trustees' accounts, or any other documents concerning the administration of the Trust, including, but not limited to, claims experience of some or all beneficiaries who receive medical coverage through a specific Participating Employer. For example, an Employee of a Participating Employer is not entitled to review or receive the claims experience, whether de-identified or not, of some or all beneficiaries who receive medical coverage through his/her Participating Employer.

ARTICLE X MEWA FINAL RULE

10.1 Fully Assessable Contract. This is a fully assessable contract. In the event the Trust is unable to pay its obligations, Participating Employers will be required to contribute through equitable assessments the money necessary to meet any unfulfilled obligations.

10.2 Examinations by Indiana Department of Insurance. The Commissioner of the Indiana Department of Insurance or any person appointed by the Commissioner shall have the power to examine the affairs of the Trust and, for such purposes, shall have free access to all the books, records, and documents that relate to the business of the Trust and

may examine under oath its Trustees or directors, officers, agents, and employees in relation to the affairs, transactions, and conditions of the Trust. Expenses of the examination shall be paid for by the Trust as provided in Indiana Code § 27-1-34-6. The examination shall be conducted in accordance with Indiana Code § 27-1-3.1 and may cover financial or market conduct issues.

ARTICLE XI
MISCELLANEOUS

11.1 Amendment. This Trust Agreement may be amended in writing at any time by an affirmative vote of ninety percent (90%) of Trustees in attendance at a scheduled meeting of the Trustees.

11.2 Governing Law. This Trust is created and accepted in the State of Indiana and all questions pertaining to the validity or construction of this Trust Agreement and of the acts and transactions of the parties hereto shall be determined in accordance with the laws of the State of Indiana, except as to matters governed by federal law. Unless otherwise required by law, all disputes shall be litigated in Marion County, Indiana.

11.3 Tax-Exempt Status. The Trust is an organization formed, operated and funded by political subdivisions to pool their health insurance risks. The Trust is intended to qualify for exemption from federal taxation under section 115(1) of the Internal Revenue Code of 1986, as amended. See Revenue Ruling 90-74.

11.4 Specific Provisions. Should any provision of this Trust Agreement be held to be unlawful, or unlawful as to any person or instance, such fact shall not adversely affect the other provisions herein contained or the application of said provisions to any other person or instance, unless such illegality shall make impossible the functioning of the plan.

11.5 Persons Dealing With The Trustees. No person, firm or corporation dealing with the Trustees shall be obligated to see to the application of any property of the Trust, or be obligated to see that the terms of the Trust have been complied with, or be obligated to inquire into the necessity or expediency of any act of the Trustees, and every instrument executed by any Trustees shall be conclusive in favor of any person, firm or corporation relying thereon, that:

- (a) At the time of delivery of said instrument the Trust was in full force and effect.
- (b) Said instrument was effected in accordance with the terms and conditions of this Trust Agreement, and
- (c) The Trustee or Trustees, as the case may be, were duly authorized and empowered to execute such instrument.

11.6 Signatures. Each Participating Employer warrants and represents that it has executed this Trust Agreement pursuant to a binding resolution of its governing board authorizing and directing said signatory to enter this Trust Agreement on behalf of said Participating Employer, and that said resolution was adopted in public session in compliance with law.

11.7 Execution in Counterparts. This Agreement may be signed in multiple counterparts, and each counterpart shall be deemed part of a single, integrated instrument.

3. Instruct the proper officer to publish notice pursuant to IC 5-3-1 for a public hearing on proposed additional appropriations in excess of the 2009 Budget for the Fire/EMS Department of the Corporation General Fund, in the amount of \$9,217.00.

The proper officer was instructed to publish the notice under general consent.

4. **Works Board Order No. 2009-34:** A Works Board Order Regarding Stipends or Honoraria for certain Bands Participating in Highland Parades, repealing Works Board Order No. 2009-32. Councilor Herak moved the passage and adoption of the Works Board Order. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

THE TOWN of HIGHLAND
WORKS BOARD ORDER NO. 2009-34

AN ORDER AUTHORIZING, AND APPROVING THE PAYMENT OF ELECTIVE HONORARIA OR STIPENDS to the SEVERAL BANDS AND OTHER SPECIAL GROUPS in Recognition and in Goodwill for their APPEARANCE AND PUBLIC PERFORMANCE IN THE ANNUAL HIGHLAND INDEPENDENCE DAY TWILIGHT PARADE AND THE CHRISTMAS HOLIDAY PARADE.

Whereas, The Town Council for the Town of Highland is the Legislative and Fiscal Body of the Municipality as well as the works board pursuant to IC 36-1-2 et seq.,

Whereas, The Highland Community Events Commission, did organize and marshal the annual Independence Day Parade; and

Whereas, The Highland Community Events Commission did invite several middle school and high school marching bands as well as other special groups to participate in the parade;

Whereas, The Highland Community Events Commission has informed the Town Council that it has been customary for the payment of an honorarium or stipend to some of the participating marching bands as well as other special groups;

Whereas, The Highland Community Events Commission has further recommended, requested and identified appropriations in the Special Events Non Reverting Fund be authorized to support the payment of these honoraria and stipends;

Whereas, The Town Council has been reliably advised that the bands as well as other special groups perform as volunteers without remuneration, but do expend time, labor and creative process to support the Town of Highland's public parade and patriotic demonstration; and,

Whereas, Under its authority of IC 36-1-3, The Town passed and adopted Section §33.03 of the Highland Municipal Code which provides in pertinent part that the Town Council is authorized to budget and appropriate funds from the general fund of the town to pay the expenses incurred in promoting the best interests of the town and that such expenses may include, but not necessarily be limited to those incurred in developing relations with other units of government or any other expenses of civic or governmental nature deemed by the Town Council to be in the interests of the Town; and

Whereas, The Town Council has reviewed the matter, and now desires to make findings and determinations related to these recommendations and requests and to favor the recommendation and request of the Special Event Advisory Committee,

Now Therefore Be it hereby Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1 That the following bands and special groups which participated in the most recent **Independence Day Twilight Parade**, be paid an elective honorarium, in appreciation and recognition of their participation, as follows:

(A)	Orak Shriners	\$300.00
(B)	Highland High School Band	\$300.00;

Section 2 That the following band which will participate in the **Christmas Holiday Parade**, be paid an elective honorarium, in appreciation and recognition of its participation, as follows:

(A)	Highland High School Band	\$200.00;
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Section 3. That the Town Council hereby finds and determines that the forgoing activities and items of expense are lawful and proper expenses incurred in promoting the best interests of the Town as set forth in Section §33.03 of the Highland Municipal Code which reads as follows:

§ 33.03 AUTHORITY OF TOWN COUNCIL TO REIMBURSE TOWN OFFICIALS FOR CERTAIN EXPENSES.

The Town Council is hereby authorized to budget and appropriate funds from the general fund of the town to pay the expenses of, and to reimburse, town officials for expenses incurred in promoting the best interests of the town. Such expenses may include, but not necessarily be limited to meals, decorations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with other units of government, and any other expenses of civic or governmental nature deemed by the Town Council to be in the interests of the town.

Section 4. That the Town Council further finds and determines that the activities and expenses as described herein, while not paid from the Corporation General Fund, are uses and expenditures consistent with the purposes of the **Special Events Non Reverting Fund, when proper appropriations are accordingly approved;**

Section 5. That the Clerk-Treasurer is hereby authorized and instructed to prepare sufficient accounts payable vouchers against the appropriate fund and account for the benefit of each of the several bands as well as special groups which participated in the most recent **Independence Day Twilight Parade**, and the band which will participate in the **Christmas Holiday Parade**, as may be identified by the Community Events Commission, depicting the expense as an Honorarium or Stipend, in the amounts herein named, and to take such other measures to carry-out the purposes and objects of this order.

Section 6. That any actions taken by public officers in advance and in anticipation of the passage and adoption of this order, are hereby ratified, all pursuant to IC 36-1-4-16;

Section 7. That Works Board Order No. 2009-32 is hereby repealed.

Be it so ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 12th day of October 2009 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Comments from the Town Council Members
(Good of the Order)**

- **Councilor Bernie Zemen:** • *Redevelopment Commission Liaison • Plan Commission member • Chamber of Commerce Co-Liaison • Lake County Solid Waste Management District Board of Directors • President's designee to Selection Centennial Commission.*

Councilor Zemen reminded all who were present to tune into WJOB to listen to his show at 8:30 a.m. He also recognized the Redevelopment Director who thanks the Town Council, the Plan Commission and the Building Commissioner for their work and approval of the design standards.

- **Councilor Mark Herak:** • *Advisory Board of Zoning Appeals, Liaison • Board of Waterworks Directors, Liaison • Community Events Commission, Liaison.*

Councilor Herak reported that the Parks and Recreation Superintendent was in Carmel, Indiana visiting a park facility there.

Councilor Herak also wished Judy Vaughn, the secretary in Public Works a swift recovery from her back surgery.

- **Councilor Brian Novak:** • *Town Board of Metropolitan Police Commissioners, Liaison • Traffic Safety Commission Member • Chamber of Commerce Co-Liaison.*

Councilor Novak congratulated the Police Chief on the recent award of the \$470,001 Federal Grant for a program on predator prevention.

- **Councilor Konnie Kuiper:** • *Fire Department Liaison • Park and Recreation Board, Liaison • Chamber of Commerce Co-Liaison.*

Councilor Kuiper recognized the Fire Chief and commended the recent Fire Department Open House.

- **Councilor Dan Vassar:** • *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Board of Sanitary Commissioners.*

Council President Vassar congratulated the Police Chief on the grant award as well.

Comments from the Public or Visitors.

1. Chuck Boender, 8801 Idlewild, Highland, noted that his street was slated for a resurfacing and expressed disappointment as he was hoping for a street reconstruction. He again reported the ponding that he experiences in from of his residence from the street during rain. He further inquired whether or not as a stopgap measure if a storm water catch basin could be installed.

The Public Works Director did report that the neighborhood was surveyed for possible reconstruction and that there was low survey response.

2. Jim Paglis, 8839 Idlewild, Highland, expressed his preference for reconstruction rather than resurfacing and asked that the Town Council reconsider its decision. Mr. Paglis opined that there may be a majority of residents who would favor reconstruction now.

A colloquy ensued between and among the Town Council, the Public Works Director and the residents. The Town Council President suggested that he perceived that the Town Council would be inclined that the resurfacing be curtailed as scheduled for Idlewild, redirected to another needed street, and that Idlewild reconstruction be revisited for 2010.

3. Rick Volbrecht, 9221 Parkway Drive, Highland inquired about the efficacy of the Indiana Association of Cities and Towns Medical Trust, and expressed concerns about the program.

With leave from the Town Council, the Clerk-Treasurer responded to the concerns.

Payment of Accounts Payable Vouchers. There being no further business from the public or visitors, Councilor Herak moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period September 29, 2009 through to October 12, 2009. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the Clerk-Treasurer was authorized to make payment.

General Fund, \$342,112.01; Motor Vehicle Highway and Street (MVH) Fund, \$17,476.76; Local Road and Street (LRS) Fund, \$6,180.001; Law Enforcement Continuing Education and Training Fund, \$1,455.47; Flexible Savings Account (FSA) Agency Fund, \$1,803.38; Insurance Premium Fund, \$109,878.09; Information and Communications Technology Fund, \$4,244.18; Solid Waste District Grant Fund, \$198.38; Special Events Non-reverting Fund, \$300.00; Select Centennial Commission Fund, \$1,677.27; Rainy Day Fund, \$102,500.00; Municipal Cumulative Development Fund, \$54,056.00; General Improvement Fund, \$48.00; Gaming Revenue Sharing Fund, \$30,741.80; Corporation Capital Fund, \$28,533.00; Payroll, \$9.83. Total: \$701,214.17.

Adjournment. Councilor Herak moved that the regular meeting be adjourned. Councilor Zemen seconded. Upon a vote *viva voce*, the motion passed. The regular meeting of the Town Council of **Monday, October 12, 2009** was adjourned at 8:12 O'clock p.m.

No study session followed.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer